

BRITISH COLUMBIA.

DRAFT OF INSTRUCTIONS passed under
the Royal Sign-Manual and Signet to
Anthony Musgrave, Esq., as Governor
and Commander-in-Chief of the Colony
of British Columbia and its Depen-
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VICTORIA R.

Dated 16th October, 1869.

INSTRUCTIONS to Our Trusty and Well-Beloved Anthony Musgrave, Esquire, Our Governor and Commander-in-Chief in and over Our Colony of British Columbia and its Dependencies, or, in his Absence, to Our Lieutenant-Governor or the Officer Administering the Government of Our said Colony for the time being.

Given at Our Court at Balmoral this 16th day of October, 1869, in the Thirty-third Year of Our Reign.

Preamble.

I. WHEREAS by a Commission under the Great Seal of Our United Kingdom of Great Britain and Ireland, bearing even Date herewith, We have Constituted and Appointed you to be Our Governor and Commander-in-Chief in and over Our Colony of British Columbia and its Dependencies for and during Our Will and Pleasure, and have further Authorized and Commanded you to Do and Execute all Things in due manner that shall belong to your said Command, and the Trust We have reposed in you, according to the several Powers and Directions therein mentioned, and particularly according to such Instructions as should therewith be given you. Now, therefore, We do by these Our Instructions under Our Sign-Manual and Signet, being the Instructions so referred to as

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aforesaid, Declare Our Pleasure to be that you shall with all due solemnity cause Our said Commission to be Read and Published in the presence of the Members of Our Executive Council of Our said Colony, and that you shall then and there take the Oath of Allegiance in the Form provided by an Act passed in the Session holden in the Thirty-first and Thirty-second Years of Our Reign, intituled "An Act to amend the Law relating to Promissory Oaths;" and likewise that you do take the usual Oath for the due execution of the Office and Trust of Our Governor and Commander-in-Chief in and over Our said Colony and its Dependencies, and for the due and impartial Administration of Justice, which said Oaths the Senior Member of Our said Council there present shall, and he is hereby required to Tender and Administer unto you.

II. And We do hereby Authorize and Require you from time to time, and at any time hereafter, by yourself or by any other Person to be Authorized by you in that behalf, to Administer to all and every Persons or Person as you shall think fit, who shall hold any office or place of trust or profit, or who shall at any time or times pass into our said Colony and its Dependencies, or be resident therein, the said Oath of Allegiance, as well as such other Oaths as may from time to time be prescribed by any Laws or Statutes in that behalf made or provided.

III. And whereas We have by Our said recited Commission Declared Our Pleasure to be that for the purpose of Advising you, there shall be an Executive Council for Our said Colony to be constituted in such manner as may from time to time be Directed by Our Instructions accompanying Our said Commission or any other Instructions addressed to you by Us under Our Sign-Manual and Signet: Now We do by these Our Instructions, Nominate and Appoint the undermentioned Public Officers to be during Our Pleasure the Members of Our said Executive Council, that is to say, the respective Officers lawfully acting for the time being as the Colonial Secretary, as the Attorney-General, as Police Magistrate of New Westminster, as the Chief Commissioner of Lands and Works, and as the Collector of Customs for Our said Colony: and the

at the first meeting

Oaths to be taken by the Governor.

Oaths to be Administered by Governor to Officers and others.

Constitution of Executive Council.

*The Police Magistrate at N.W. is here substituted
+ The Treasurer*

Precedence and Seniority of Our said Executive Councillors shall among themselves be in the order in which they are herein named.

Appointment of Unofficial Members.

This is a new clause

IV. And We do hereby further Authorize and Empower you from time to time, as it may seem to you expedient, to Nominate and Appoint by Instruments to be passed under the Public Seal of Our said Colony any Person or Persons being Members of the Legislative Council of Our said Colony to be Unofficial Members of Our said Executive Council; and such Unofficial Members shall take Rank after the Official Members of the said Executive Council, and as between themselves according to the Order of their Appointment as Members of the said Executive Council, or if Appointed by the same Instrument according to the Order in which they are named therein: Provided always, and We do Declare Our Pleasure to be that the Number of such Unofficial Members of Our said Executive Council shall never exceed the Number of Two, and that every such Appointment shall be Provisional only until the same shall have been approved of by Us through One of Our Principal Secretaries of State, and that when any such Unofficial Member of Our said Executive Council shall from any cause whatsoever cease to be a Member of the said Legislative Council, he shall thereupon cease to be an Unofficial Member of Our said Executive Council.

Governor to communicate Instructions to Executive Council.

V. And We do Direct and Appoint that you do communicate forthwith to Our said Executive Council these Our Instructions, and likewise all such others, from time to time, in the execution of which their consent and concurrence are requisite, or which you shall find convenient for Our Service to be imparted to them.

Executive Council not to proceed to Business unless Summoned.

** new*

VI. And We do further Direct and Appoint that Our said Executive Council shall not proceed to the despatch of Business unless duly Summoned by your Authority, nor unless Two Members at the least, exclusive of yourself, or in your Absence of the Member Presiding, be present and assisting throughout the whole of the Meetings at which any such Business shall be dispatched.

VII And We do further Direct and Appoint

that you do attend and Preside at the Meetings of Our said Executive Council, unless when prevented by some necessary and reasonable cause, and that in your Absence the Senior Member of the said Council actually present shall Preside at all such Meetings.

Governor to Preside.

new

VIII. And We do further Direct and Appoint that a full and exact Journal or Minute be kept of all the Deliberations, Acts, Proceedings, Votes, and Resolutions of Our said Council, and that at each Meeting of the said Council the Minutes of the last preceding Meeting be read over and confirmed or amended, as the case may require, before proceeding to the despatch of any other Business, and that Twice in each Year a Full Transcript of all the Minutes of the said Council of the preceding Half Year be transmitted to Us through One of Our Principal Secretaries of State.

**By the Colonial Secretary omitted*

Journals and Minutes to be kept and transmitted.

new in this clause

IX. And We do further Direct and Appoint that in the execution of the Powers and Authorities committed to you by Our said Commission, you do in all cases consult with Our said Executive Council, excepting only in cases which may be of such a nature that in your judgment Our Service would sustain material prejudice by consulting Our Council thereupon, or when the matters to be decided shall be too unimportant to require their advice, or too urgent to admit of their advice being given by the time within which it may be necessary for you to act in respect of any such matters. Provided that in all such Urgent Cases you do subsequently, and at the earliest practicable period, communicate to the said Council the measures which you may so have adopted, with the reasons thereof.

Governor to Consult Executive Council, except in certain specified cases.

X. And We do Authorize you in your Discretion, and if it shall in any case appear right, to act in the exercise of the Power committed to you by Our said Commission in opposition to the Advice which may in any such case be given to you by the Members of Our said Executive Council: Provided, Nevertheless, that in any such case you do fully report to us, by the first convenient opportunity, every such proceeding, with the grounds and reasons thereof: Provided Also that in every case it shall be competent to any Member of Our said Council to record at length on the Minutes of the Council

Governor may act in Opposition to the Council.

Report grounds for so doing.

the grounds and reasons of any Advice or Opinion he may give upon any question brought under the consideration of such Council.

XI. And We do further Direct and Appoint that no Question shall be brought before Our said Executive Council for their advice or decision, excepting only such Questions as may be proposed by you for that purpose: Provided, Nevertheless, that if any Member shall, by Application in Writing, request you so to propose any Question, it shall be competent to any such Member to record upon the said Minutes of the said Council such his Written Application, together with the Answer which may be returned by you to the same.

XII. And in the Enactment of Laws within Our said Colony, We do Direct and Enjoin that you do observe, as far as may be practicable, the following Rules and Instructions (that is to say):—

XIII. All Laws to be Enacted by you with the Advice and Consent of the said Legislative Council shall be styled "Ordinances enacted by the Governor of British Columbia with the Advice and Consent of the Legislative Council thereof."

XIV. You are as much as possible to observe in the passing of all Ordinances that each Different Matter be provided for by a Separate Ordinance without intermixing into one and the same Ordinance such things as have no proper relation to each other; and you are more especially to take care that no Clause or Clauses be inserted in or annexed to any Ordinance which shall be Foreign to what the Title of such Ordinance imports, and that no Perpetual Clause be part of any Temporary Ordinance.

XV. You are not to Assent in Our Name to any Bill of any of the Classes hereinafter specified (that is to say):—

1. Any Bill for the Divorce of Persons joined together in Holy Matrimony.

2. Any Bill whereby any Grant of Land or Money, or other Donation or Gratuity, may be made to yourself.

3. Any Bill whereby any Increase or Diminution

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Questions for Debate.

Rules to be observed in Enactment of Laws.

Style of Ordinances.

Different subjects not to be mixed in the same Ordinance.

Description of Bills not to be assented to by Governor.

may be made in the Number, Salary, or Allowances of the Public Officers.

4. Any Bill whereby any Paper or Other Currency may be made a Legal Tender, except the Coin of the Realm, or other Gold or Silver Coin.

5. Any Bill imposing Differential Duties.

6. Any Bill, the provisions of which shall appear inconsistent with Obligations imposed upon Us by Treaty.

7. Any Bill interfering with the Discipline or Control of Our Forces in Our said Colony by Land and Sea.

8. Any Bill of an Extraordinary Nature and Importance, whereby Our Prerogative, or the Rights and Property of Our Subjects not residing in Our said Colony, or the Trade and Shipping of Our United Kingdom and its Dependencies, may be prejudiced.

9. Any Bill whereby Persons not of European Birth or Descent may be subjected or made liable to any Disabilities or Restrictions to which Persons of European Birth or Descent are not also subjected or made liable.

10. Any Bill containing Provisions to which Our Assent has been once Refused, or which have been Disallowed by Us :

Unless such Bill shall contain a Clause suspending the Operation of such Bill until the Signification in the Colony of Our Pleasure thereupon, or unless you shall have satisfied yourself that an Urgent Necessity exists requiring that such Bill be brought into Immediate Operation, in which case you are Authorized to Assent in Our Name to such Bill unless the same shall be Repugnant to the Law of England, or Inconsistent with any Obligations imposed on Us by Treaty. But you are to transmit to Us by the earliest opportunity the Bill so assented to, together with your Reasons for Assenting thereto.

XVI. You shall take care that no Private Bill be passed whereby the property of any Private Person may be affected, unless the same shall contain a saving of the Rights of Us, Our Heirs and Successors, and of all Bodies Politic and Corporate, and of all Others except such as are mentioned in the said Bill, and those claiming

Private Bill.

by, from, and under them, and that you do not give your Assent to any such Bill until proof be made before you in the Legislative Council, and entered in the Council Books, that adequate and timely Notification by Public Advertisement or otherwise was made of the Party's intention to apply for such Bill before any such Bill was brought before the said Legislative Council; and a Certificate under your Hand shall be transmitted with and annexed to every such Private Ordinance signifying that the Notification has been given and declaring the manner of giving the same.

Ordinances to be sent home duly authenticated.

XVII. And We do further Direct and Appoint that when any Ordinance has been passed by you with the advice of Our said Legislative Council, you shall with all convenient speed transmit to Us, through One of Our Principal Secretaries of State, for Our final Assent, Disallowance, or other Direction thereupon to be signified through you, a Transcript in Duplicate of the same, duly Authenticated under the Public Seal of the said Colony, and by your own Signature, and that such Transcript shall be accompanied with such Explanatory Observations as may be required to exhibit the reasons and occasion for passing such Ordinance.

Collection of Ordinances to be published every year.

XVIII. And We do further Direct that, at the earliest practicable period at the commencement of each year, you do cause a complete Collection to be published, for general information, of all Ordinances Enrolled during the preceding year.

Minutes of Proceedings to be kept.

XIX. And We do further Direct that Minutes be regularly kept of the Proceedings of the said Legislative Council by the Clerk thereof, and that the said Council shall not proceed to the Despatch of Business until the Minutes of the last preceding Meeting have first been read over, and confirmed or corrected as may be necessary, and that twice in each year you do Transmit to Us, through One of Our Principal Secretaries of State, a full and exact Copy of the said Minutes.

Minutes to be sent home twice a-year.

XX. And Whereas We have by Our said Commission Authorized you in Our Name and on Our Behalf to Make and Execute under the Public Seal

of Our said Colony Grants and Dispositions of Lands which may be lawfully Granted and Disposed of by Us within Our said Colony: Now We do Direct and Enjoin that you shall not, directly or indirectly, purchase for yourself any of such Lands without Our Special Permission given to you in that behalf through One of Our Principal Secretaries of State.

Governor not to purchase Crown Land without permission.

new

a clause preventing free grants of Land omitted

XXI. And We do hereby Direct and Appoint that all Commissions and Appointments granted by you to any Person or Persons for exercising any Office or Employment be granted during Pleasure only; and that whenever you shall Appoint to any vacant Office or Employment any Person not by Us especially Directed to be Appointed thereto, you shall at the same time expressly apprise such Person that such Appointment is to be considered only as temporary and provisional until Our Allowance or Disallowance thereof be signified.

Appointments to be Provisional and during Pleasure.

XXII. And Whereas We have by Our said Order in Council and by Our said Commission Authorized you, upon sufficient cause to you appearing, to Suspend from the exercise of his Office within Our said Colony any Legislative Councillor or other Person exercising the same under and by virtue of any Commission or Warrant granted or to be granted by Us in Our Name or under Our Authority: Now We do Charge and Require you that before proceeding to any such Suspension you do signify by a Statement in Writing to the Person so to be Suspended the Grounds of such your intended proceeding against him, and that you do call upon such Person to communicate to you in writing a Statement of the Grounds upon which, and the Evidence by which, he may be desirous to exculpate himself; which Statement and Exculpation you will lay before Our said Executive Council, and having consulted the said Council thereupon, you will cause to be recorded in the Minutes of the said Council whether they or the majority of them do or do not assent to the said Suspension; and if you thereupon proceed to such Suspension, you are to transmit both of the said Statements, together with the Minutes of Council, to Us, through One of Our Principal Secretaries of State, by the earliest convey-

Suspension of Officers.

ance. But if in any case the Interests of Our Service shall appear to you to demand that a Person shall cease to exercise the Powers and Functions of his Office instantly, or before there shall be time to take the proceedings hereinbefore directed, you shall then interdict such Person from the exercise of his Powers and Functions, preserving to him, however, until such proceedings shall have been taken, the Emoluments and Advantages of his Office.

grants

Pardon Power, Regulation of.

XXIII. And Whereas We have by Our said Commission Authorized and Empowered you, as you shall see occasion, in Our Name and on Our Behalf, to Grant to any Offender convicted of any Crime in any Court, or before any Judge, Justice, or Magistrate within Our said Colony, a Pardon, either free or subject to lawful Conditions: Now We do hereby Direct and Enjoin you to call upon the Judge Presiding at the Trial of any Offender, who shall have been condemned to suffer Death by the Sentence of any Court within Our said Colony, to make to you a Written Report of the case of such Offender, and such Report of the said Judge shall by you be taken into consideration at the First Meeting thereafter which may be conveniently held of Our said Executive Council, where the said Judge may be especially summoned to attend, and you shall not Pardon or Reprieve any such Offender as aforesaid, unless it shall appear to you expedient so to do upon receiving the Advice of Our Executive Council therein; but in all such cases you are to decide either to extend or to withhold a Pardon or Reprieve according to your own deliberate judgment, whether the Members of Our said Executive Council concur therein or otherwise, entering, Nevertheless, on the Minutes of the said Council, a Minute of your Reasons at length, in case you should decide any such question in opposition to the judgment of the majority of the Members thereof.

Promotion of Religion amongst
the Natives.

XXIV. And We further Direct and Enjoin that you do to the utmost of your power promote Religion and Education among the Native Inhabitants of Our said Colony and its Dependencies, and that you do especially take care to protect them in their Persons and in the Free Enjoyment of their

Possessions, and that you do by all lawful means prevent and restrain all Violence and Injustice which may in any manner be practised or attempted against them, and that you take such measures as may appear to you necessary for their conversion to the Christian Faith, and for their Advancement in Civilization.

XXV. And Whereas you will receive through One of Our Principal Secretaries of State a Book of Tables in Blank (commonly called the "Blue Book"), to be annually filled up with certain Returns relative to the Revenue and Expenditure, Militia, Public Works, Legislation, Civil Establishments, Pensions, Population, Schools, Course of Exchange, Imports and Exports, Agricultural Produce, Manufactures, and Other Matters in the said "Blue Book" more particularly specified with reference to the State and Condition of Our said Colony: Now We do hereby Direct and Enjoin that all such Returns be accurately prepared, and punctually transmitted to Us from Year to Year through One of Our Principal Secretaries of State.

"Blue Book."

XXVI. And Whereas great prejudice may happen to Our Service and to the security of Our said Colony by the Absence of the Governor, you shall not upon any pretence whatever quit Our said Colony without having first obtained leave from Us for so doing under Our Sign-Manual and Signet, or through One of Our Principal Secretaries of State.

Governor not to Absent himself without previous leave.

V. R.

